

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ABSTRACT & TITLE CO., INC.,

Plaintiff,

Case No. 22-cv-1372-pp

v.

CAPITAL ONE NA,

Defendant.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT'S MOTION TO
DISMISS (DKT. NO. 13)**

On March 13, 2023, the defendant filed a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6). Dkt. No. 13. The defendant argues that the plaintiff's claim under UCC Article 4A (Wis. Stat. §410.205) does not apply to the defendant under the facts alleged. Dkt. No. 14 at 4-5. The defendant also argues that to the extent the plaintiff is actually asserting a claim under Wisconsin UCC Section 207, the plaintiff lacks standing to bring a claim against the defendant under that section and it cannot allege any violation by the defendant. *Id.* at 5-10.

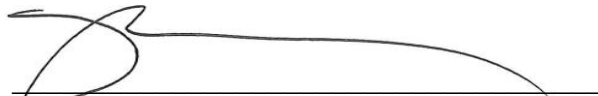
Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion it must do so within twenty-one days—that is by April 3, 2023. The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that it has another option—it may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts of

Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015) (explaining that a responsive amendment may avoid the need to decide the motion or reduce the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by April 3, 2023 the plaintiff shall file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 14th day of March, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge